



D. KENT HURN, CHAIRPERSON

K A N S A S
DEPARTMENT OF ADMINISTRATION
CIVIL SERVICE BOARD

KATHLEEN SEBELIUS,
GOVERNOR
HOWARD R. FRICKE SECRETARY

To: Jack Rickerson, Director, Division of Personnel Services
Mark S. Braun, Director, Office of Administrative Hearings
D. Kent Hurn, Chairman, Civil Service Board

From: Peggy Graham, Secretary, Civil Service Board

Date: April 21, 2004

Re: Quarterly Update

The following reflects the Civil Service Board cases in which action was taken since the January 15, 2004 quarterly report:

A. Cases Decided and/or Disposed Of:

1. **Name Removed**, dismissal *dismissed*
Social and Rehabilitation Services
Senior Administrative Assistant. *Appellant* had a pattern and practice of failing to arrive to work on time, or failing to arrive to work at all. *Appellant* failed to notify her supervisor when she would be absent and fabricated reasons for her failure to appear at work as scheduled. In June 2004 she was absent without authorization 39% of the time. When she was at work, she was often incoherent, didn't track information provided to her and was belligerent. She failed to return to work at the expiration of her FMLA on August 20, 2004 and threatened to commit suicide. When co-workers checked on her welfare after she threatened suicide she became angry and cussed at her supervisor claiming she had been harassed. She failed to appear for her scheduled hearing and a default order was issued.
2. **Name Removed**, 2-day suspension *dismissed*
Lansing Correctional Facility
Corrections Officer I. *Appellant* engaged in a verbal altercation with an inmate then became argumentative with her supervisor. She had also been counseled about unprofessional behavior several times in the past. *Appellant* failed to appear for her scheduled hearing and a default order was entered against her.

3. **Name Removed**, 3-day suspension *affirmed*
Kansas Highway Patrol
Trooper. *Appellant* was involved in two avoidable traffic accidents within a period of 7 months. In both cases *appellant* used poor judgment in driving his patrol vehicle. In the first instance, *appellant* drove at excessive speeds to a non-emergency situation and failed to use his emergency lights and sirens as is required when driving in excess of the speed limit. *Appellant's* patrol vehicle struck another vehicle in an intersection causing property damage to both vehicles and injuries to both drivers. In the second instance, *appellant* drove at a speed greater than warranted by the road conditions. The road was wet from a recent storm and *appellant* was not driving attentively. As a result he was unable to avoid hitting the rear of the vehicle in front of him when that vehicle stopped suddenly. After hearing all of the evidence, the Board found that the appointing authority's decision was reasonable.
4. **Name Removed**, 20-day suspension *withdrawn*
Atchison Juvenile Correctional Facility
Juvenile Corrections Officer I. *Appellant* hit a juvenile offender several times with the handle of a dust mop and used the handle of the dust mop as leverage to attempt to get the offender out of bed. Two other juvenile offenders witnessed this occur. During her opportunity to meet with the appointing authority after discipline was proposed, *appellant* became belligerent, loud, disruptive and would not calm down. *Appellant* withdrew her appeal shortly before the hearing was scheduled to begin.
5. **Name Removed**, dismissal *dismissed*
Hutchinson Correctional Facility
Corrections Officer I. *Appellant* was dismissed for being arrested and charged with domestic violence. *Appellant* was a probationary employee at the time of her dismissal. The Board provided her an opportunity to respond the allegation that the Board lacked jurisdiction to hear her appeal and she failed to respond. The *appellant's* request for hearing was dismissed for lack of jurisdiction.
6. **Name Removed**, dismissal *modified*
Atchison Juvenile Correctional Facility
Juvenile Corrections Officer III. *Appellant* was convicted on three occasions for the class A misdemeanor of writing a worthless check. In July 2003 all staff at AJCF were required to fill out a new security clearance form. *Appellant* marked "no" to the question, have you ever been convicted of a crime. Another JCO III also marked "no" to the same question. After consulting that employee, the agency decided not to proceed with his termination. *Appellant* was dismissed from her employment, however. After hearing all of the evidence, the Board determined that dismissing *appellant* was not reasonable, given that she had reported her previous convictions to the appointing authority at the time, that the agency was aware of her convictions in May 2003 and took no action against her, and another employee in the same job classification who made the same mistake on the security clearance form was not dismissed from his employment. The Board reinstated *appellant* to her previous position, but did suspend her for 5 months for her failure to correctly fill out the security clearance form.
7. **Name Removed**, dismissal *withdrawn*
Kansas Highway Patrol

Trooper. *Appellant* belittled other law enforcement officers from other agencies, utilized equipment he had specifically been told not to utilize and upon which he was not certified, and falsified documentation filed with the district court. *Appellant* withdrew his appeal prior to the scheduled hearing.

8. **Name Removed** dismissal *modified*
Topeka Juvenile Correctional Facility
Juvenile Corrections Officer I (JCO). *Appellant* overheard a conversation among several Juvenile Offenders in which the offenders were listing female staff members in the order they would most prefer to have sexual relations with. *Appellant* overheard the name of his then girlfriend and fellow JCO used in the conversation. He approached the offenders to attempt to get additional information from them. Later that day, he told his then girlfriend and fellow JCO that he had overheard offenders talking about her. She asked what they were talking about and he told her that they had ranked her high on their list of staff that they would like to have sexual relations with. She later told another JCO that she was offended by this conversation. He told her to report it if she was offended. Approximately 6-8 weeks later she did report the conversation. *Appellant* also had a bottle of toxic cleaner in his locked locker that was not permitted on the premises. After hearing all of the evidence, the Board found that *appellant's* actions did not constitute sexual harassment. The Board did find that he failed to write a disciplinary report on the offenders engaging in a prohibited conversation and that he had a prohibited cleaner in his locker. The Board found dismissal to be unreasonable, and modified the appointing authority's decision to a two month suspension without pay.
9. **Name Removed**, dismissal *modified*
Board of Emergency Medical Services
EMS Specialist/ Inspector. *Appellant* suffered a serious injury on June 30, 2003. She was placed on Family Medical Leave and received shared leave. On July 17, 2003 the time she requested for shared leave expired, however she had not been released to return to work. The agency continued to permit her to receive shared leave until September 20, 2003. On September 25, 2003, *appellant* was notified that her employment was terminated effective September 20, 2003. The agency learned that their dismissal of *appellant* violated the Civil Service Act as they had not provided her with notice of her appeal rights. On November 4, 2003, *appellant* was notified that the September 20 dismissal was null and void and that her dismissal was effective November 17, 2003. She was notified at that time of her appeal rights under the Civil Service Act. She was also informed that the agency would continue to pay its portion of her medical insurance as she was employed by the agency from September 20 through November 17. *Appellant* appealed claiming that she had never received notice that her approved shared leave had terminated and that she was entitled to paid shared leave from September 20 through November 17. The agency argued that the Board lacked jurisdiction over the matter. The Board found it had jurisdiction over the entire matter as *appellant* had timely appealed. The Board also found that while *appellant's* November 17 dismissal was reasonable, the failure to continue her shared leave without notice to her that it had been terminated was unreasonable. The Board ordered the agency to pay *appellant* for her shared leave from September 20 through November 17, 2003.
10. **Name Removed**, demotion *dismissed*
Kansas Department of Transportation

Engineering Associate I to Engineering Technician. *Appellant* was an Engineering Technician employed by KDOT. He was promoted to an Engineering Associate I trainee. During his training period the agency determined that he was not performing his job satisfactorily. Consequently he was demoted back into his Engineering Technician position. The Board determined that the agency complied with K.S.A. 75-2944(b) and as a result, the Board does not have jurisdiction in this matter. The appeal was dismissed for lack of jurisdiction.

11. **Name Removed**, dismissal *affirmed*
Lansing Correctional Facility
Power Plant Operator Senior. *Appellant* transferred from KU as a plumber to LCF as a power plant operator in August 2003. His duties included supervising inmates assigned to help in the power plant. Between August 2003 and January 2004, *appellant* repeatedly fell asleep while on the job and while supervising inmates, lost his keys and had them returned by inmates, left insulin syringes around the power plant where inmates could find them, and failed to properly perform the duties and responsibilities of a power plant operator. He was unable to properly respond to alarms on the boilers, he let a boiler run dry risking explosion and failed to properly restart the boilers when they went down. He was trained extensively and repeatedly over the course of 5 months and still was unable to perform the duties of his job. After hearing all of the evidence, the Board found that the appointing authority's decision was reasonable.
12. **Name Removed**, 1-day suspension *withdrawn*
Kansas Department of Corrections
Parole Officer I. *Appellant* failed to attend a mandatory quarterly regional meeting after being told that absences will not be excused unless due to an emergency. *Appellant* informed her supervisor that she would not attend the meeting. Her supervisor told her he did not have authority to excuse her from the meeting and told her to contact the director. She failed to do so and failed to attend the required meeting. *Appellant* withdrew her appeal prior to the scheduled hearing date.
13. **Name Removed**, 5-day suspension *affirmed*
Kansas Highway Patrol
Trooper. *Appellant* observed his neighbor behaving in a drunk and disorderly manner one evening as *appellant* was leaving his home to begin his duty shift. He observed his neighbors behavior for approximately 5 minutes from his patrol cruiser before asking the neighbor to come over to the cruiser. He then asked the neighbor to get into the front passenger side of the cruiser. He spoke with the neighbor for approximately 15 minutes inside the cruiser and repeatedly told him that he would be arresting the neighbor for drunk and disorderly conduct. He then allowed the suspect to leave the cruiser, return to his home, then return to the front passenger seat of the cruiser. He then drove the neighbor to the KHP officers for processing, then to the Shawnee County Jail to be booked in. *Appellant* violated KHP officer safety policy by failing to frisk the suspect and handcuff the suspect while he was in the cruiser and allowing the suspect to leave the cruiser and return to the home after he was told that he was being detained. After hearing all of the evidence, the Board found that the appointing authority's decision was reasonable.
14. **Name Removed**, 2-day suspension *affirmed*

Kansas Neurological Institute

Client Training Supervisor. During a team meeting, *appellant* made derogatory remarks about the new custodial worker assigned to clean his unit. He also allowed the meeting to degenerate to the point that other team members made unflattering imitations of the custodial worker and created an uncomfortable and hostile work environment for the custodial worker. After hearing all of the evidence, the Board found that the appointing authority's decision was reasonable.

15. **Name Removed**, dismissal *withdrawn*
Kansas Highway Patrol
Trooper. *Appellant* engaged in activity that violated the public trust. He withdrew his appeal prior to the scheduled hearing.
16. **Name Removed**, dismissal *withdrawn*
Topeka Juvenile Correctional Facility
Juvenile Corrections Officer I. On December 23, 2003 *appellant* was observed driving erratically in the TJCF parking lot as he arrived for his shift. He was later found asleep in the staff office and attempts to awaken him were unsuccessful. An odor of alcohol was smelled on him. EMT's were called. When they arrived the *appellant* was incoherent but awake. He refused their medical treatment. Due to his behavior, the police were called. After speaking with him, the police officers determined that he was intoxicated and could not drive himself home. He left the facility with a friend. The parties reached a settlement agreement and the matter was withdrawn prior to the scheduled hearing.
17. **Name Removed**, dismissal *withdrawn*
Department of Corrections
Administrative Assistant. *Appellant* was dismissed for engaging in a regular pattern of sick leave use in excess of that which would be expected. In October 2002 she received a 1-day suspension for improper use of leave privileges. She had also been placed on special evaluation twice between June 2002 and July 2003. In July 2003, *appellant's* dismissal was proposed. This proposal was later withdrawn with the understanding that no further abuse of leave would be tolerated. She began to abuse her leave privileges again within two days of returning to work. *Appellant* withdrew her appeal prior to the scheduled hearing.
18. **Name Removed**, dismissal *withdrawn*
Department of Health and Environment
Information Resource Specialist III. *Appellant* engaged in gross carelessness or gross negligence in an audit for which he was responsible. The parties reached a settlement agreement and *appellant* withdrew his appeal prior to the scheduled hearing.
19. **Name Removed**, 3-day suspension *affirmed*
Larned Correctional Mental Health Facility
Corrections Officer I. *Appellant* was on duty with a new corrections officer and asked him if he knew what to do if an inmate got him in a choke hold. The corrections officer replied that he didn't. *Appellant* instructed him to get a pocket knife and use it to stab the inmate in such a situation. Stabbing an inmate with a pocket knife is not an approved method or use of force in a situation such as this and *appellant* is not trained to instruct other correctional officers in the use of force techniques. After hearing all of the evidence, the Board found

that the appointing authority's decision was reasonable.

20. **Name Removed**, dismissal *withdrawn*
Human Rights Commission
Special Investigator II. *Appellant* received two unsatisfactory performance evaluations within 180 days. The parties reached a settlement and *appellant* withdrew his appeal prior to the scheduled hearing.
21. **Name Removed**, dismissal *affirmed*
Parsons State Hospital and Training Center
Activity Specialist I. *Appellant* received two unsatisfactory performance evaluations within 180 days. He was repeatedly counseled regarding his performance, but was unable or unwilling to change his behavior. His performance was determined to be poor as he failed to adhere to the work schedule he prepared for himself, he abused his leave time, he failed to attend several required meetings, he failed to report that his driver's license had been suspended and drove clients in a state car while his driver's license was suspended, he spent three weeks in jail and failed to notify his employer as that he would be unable to work during that time, and he failed to effectively communicate with his supervisor. After hearing all of the evidence, the Board found that the appointing authority's decision was reasonable.
22. **Name Removed**, dismissal *affirmed*
Topeka Correctional Facility
Corrections Officer I. *Appellant* had been informally counseled in excess of thirty times by his supervisor in his four years of employment regarding anger management and inappropriate behavior with inmates and staff. *Appellant* has a long history of difficulty in controlling his temper which resulted in yelling at inmates and staff, using profanity, and becoming belligerent and disrespectful toward his superiors. He has also received verbal counseling several times and several written reprimands for this behavior. In May 2003 *appellant* refused to move his bicycle, which was improperly chained to a light pole, to the bike rack when ordered to do so by three supervisors. He then left the facility without authorization rather than move his bicycle. In July 2003 he was found to have brought cigarettes and an aerosol can of air freshener to the facility and left them in a state car in violation of facility policy. He denied that the cigarettes and aerosol can were his. He became angry when asked to write a report about the situation and yelled at an inmate without cause, then threw a handbook at her when she continued to ask for his assistance. After hearing all of the evidence, the Board found that the appointing authority's decision was reasonable.
23. **Name Removed**, dismissal *affirmed*
Lansing Correctional Facility
Corrections Officer I. *Appellant* engaged in a personal relationship with an inmate. She acknowledged this relationship in a telephone conversation with another individual that was recorded by the facility. As a result of the prohibited relationship becoming known to other inmates, *appellant* was solicited by an inmate to introduce contraband into the facility and to engage in sexual activity with the inmate. When she refused she was assaulted by another inmate. After hearing all of the evidence, the Board found that the appointing authority's decision was reasonable.

24. **Name Removed**, dismissal *withdrawn*
Department of Transportation
Program Consultant II. *Appellant* received two unsatisfactory performance evaluations within 180 days and received numerous counseling sessions in which he was informed of what was necessary to bring his performance up to a satisfactory level. *Appellant* withdrew his request for a hearing prior to the scheduled hearing in the matter.

B. Cases Filed Between January 15, 2004 and April 15, 2004:

1. Name Removed, Highway Patrol, filed January 16, 2004
2. Name Removed, Department of Corrections, filed January 26, 2004
3. Name Removed, Kansas Neurological Institute, filed January 28, 2004
4. Name Removed, Lansing Correctional Facility, filed January 29, 2004
5. Name Removed, Topeka Juvenile Correctional Facility, filed February 6, 2004
6. Name Removed, Hutchinson Correctional Facility, filed February 6, 2004
7. Name Removed, Wichita Work Release Facility, filed February 9, 2004
8. Name Removed, Topeka Juvenile Correctional Facility, filed March 3, 2004
9. Name Removed, University of Kansas, filed March 5, 2004
10. Name Removed, University of Kansas, filed March 9, 2004
11. Name Removed, Larned Correctional Mental Health, filed March 11, 2004
12. Name Removed, Larned Correctional Mental Health, filed March 23, 2004
13. Name Removed, Larned Correctional Mental Health, filed March 24, 2004
14. Name Removed, Lansing Correctional Facility, filed March 31, 2004
15. Name Removed, Human Resources, filed April 13, 2004
16. Name Removed, Social and Rehabilitation Services, filed April 13, 2004

C. Cases Still To Be Heard:

1. Name Removed, 5-day suspension, Larned Correctional Mental Health, set 4/23/04
2. Name Removed, dismissal, Lansing Correctional Facility, set 5/17/04
3. Name Removed, dismissal, Human Resources, set 5/19/04
4. Name Removed, dismissal, Kansas Neurological Institute, set 5/3/04
5. Name Removed, dismissal, Ellsworth Correctional Facility, set 4/20/04
6. Name Removed, dismissal, Atchison Juvenile Correctional Facility, set 5/7/04
7. Name Removed, dismissal, Department of Revenue, set 4/22/04
8. Name Removed, 2-day suspension, University of Kansas, set 6/24/04
9. Name Removed, 1-day suspension, Highway Patrol, set 5/3/04
10. Name Removed, dismissal, Larned Correctional Facility, set 5/7/04
11. Name Removed, dismissal, Wichita Work Release Facility, set 5/4/04
12. Name Removed, dismissal, University of Kansas, set 4/19/04
13. Name Removed, dismissal, Department of Human Resources, set 7/21/04
14. Name Removed, dismissal, Larned Correctional Mental Health, set 5/7/04
15. Name Removed, dismissal, Social and Rehabilitation Services, set 5/20/04

D. Statistics for Completed Cases:

1.	Dismissals:	16
2.	Demotions:	1
3.	Suspensions:	7
4.	Other:	0

1.	Affirmed:	8
2.	Reversed:	0
3.	Modified:	3
4.	Dismissed:	4
5.	Withdrawn:	9

1.	Department of Corrections:	8
2.	Highway Patrol:	4
3.	Juvenile Justice Authority:	4
4.	Social and Rehabilitation Services:	3
5.	Department of Transportation:	2
6.	Bd of Emergency Medical Services:	1
7.	Health and Environment:	1
8.	Human Rights Commission:	1